

SENATE BILL REPORT

SSB 5221

As Passed Senate, March 9, 2007

Title: An act relating to indeterminate sentenced offenders.

Brief Description: Revising provisions relating to the release of offenders.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Marr, Stevens, Carrell, Eide, Regala, Brandland, Kilmer and Rasmussen; by request of Indeterminate Sentence Review Board).

Brief History:

Committee Activity: Human Services & Corrections: 1/16/07, 2/9/07 [DPS].
Passed Senate: 3/09/07, 48-0.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 5221 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Marr and McAuliffe.

Staff: Shani Bauer (786-7468)

Background: The Indeterminate Sentence Review Board (ISRB) makes decisions regarding the release and supervision of two types of offenders: offenders sentenced under indeterminate sentencing and those sentenced under determinate plus sentencing.

Criminal defendants in Washington who committed crimes before July 1, 1984, were subject to indeterminate sentencing. Under that system, a judge imposed a minimum and a maximum sentence. As a person neared the end of his or her minimum sentence, the parole board (which was the predecessor to ISRB) would determine if release was appropriate. If the parole board decided not to release the person, it would assign a new minimum term, after which the person would be reevaluated to determine whether release was appropriate.

Most persons who have committed crimes in Washington after July 1, 1984, are subject to determinate sentencing, which is characterized by specific sentences that are prescribed for various crimes. However, certain persons who have committed serious sex offenses are subject to determinate plus sentencing, in which the judge imposes a minimum and a maximum sentence. As a person sentenced under the determinate plus system reaches the end of his or her minimum sentence, ISRB determines if release and supervision is appropriate.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In determining whether to release a determinate plus offender, ISRB must consider whether the offender is more likely than not to commit a new sex offense after release. If ISRB determines that an offender is more likely than not to commit a new sex offense, ISRB must establish a new minimum term for the offender, not to exceed an additional two years. ISRB must hold another release hearing for the offender 120 days prior to the offender's new release date.

When a determinate plus offender violates the conditions of his or her community custody, ISRB may impose sanctions such as partial confinement, treatment, or community restitution or may suspend or revoke the offender's release to community custody. The current statutory language does not authorize ISRB to impose a sanction of confinement less than complete revocation of the offender's community custody release.

An offender who is accused of violating a condition of his or her community custody is entitled to a violation hearing. A violation hearing may be heard by a member of ISRB, a board examiner, or a DOC hearing officer if ISRB enters into an agreement with DOC to use its hearing officers.

Summary of Substitute Bill: The new minimum term established by ISRB for a determinate plus offender who is not released may not exceed five years. In setting a new minimum term, the ISRB may consider the time necessary for an offender to complete treatment or other relevant factors relating to the offender's release. The ISRB is also directed to adopt rules permitting an offender to petition for an earlier review if circumstances change or the Board receives new information.

A determinate plus offender who has been released and violates the terms of his or her community custody may be sanctioned with a term of confinement up to 60 days.

References to hearing examiner are updated to "presiding hearing officer" to reflect that the violation hearing may be heard by a board member, board examiner, or DOC hearing officer. ISRB must provide the offender with findings and conclusions as to its decision on a violation and will notify the offender of the right to appeal.

ISRB may issue a certificate of discharge to an offender who has performed all the obligations of his or her release including the payment of any and all legal financial obligations.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony to Original Bill: PRO: The major policy issue in this bill is to give the ISRB discretion to set a new minimum term up to five years. Given that a hearing must be held 120 days before the person's release date, the reevaluation must be done in as little as 16 months. This is often times not enough time for the person to complete sex offender treatment. The ISRB would like to look at each case individually to determine the appropriate amount of time for reevaluation. The remaining provisions are clean-up, mostly to reflect current practice.

Persons Testifying: PRO: Jeralita Costa, Chair, Indeterminate Sentence Review Board.

Signed in, Unable to Testify & Submitted Written: Gretchen Gale, Washington Association of Criminal Defense Lawyers.